

## Message Text

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ORIGIN L-03

INFO OCT-01 NEA-14 ISO-00 PM-07 NSC-07 SP-03 SS-20 RSC-01

AID-20 CIAE-00 INR-10 NSAE-00 SAB-01 SAM-01 OMB-01

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DRAFTED BY L/NEA:SCNELSON:DLS

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L/T:EMCDOWELL

DOD:LT. COL. TERRY

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FM SECSTATE WASHDC

TO AMEMBASSY CAIRO PRIORITY

SECDEF

C O N F I D E N T I A L STATE 119151

E.O. 11652: GDS

TAGS: PBOR, MARR, EG

SUBJECT: SUEZ CANAL CLEARANCE AND SALVAGE AGREEMENTS

REF: (A) CAIRO 3782, (B) STATE 110595, (C) CAIRO 3582

1. HAMID'S SUGGESTION (PARA 3 REF A) AS TO HANDLING OF THIRD-PARTY LIABILITY PROBLEM NOT ACCEPTABLE AS IT STANDS FOR TWO REASONS. FIRST, HAMID HAS DELETED LANGUAGE IN BRITISH DRAFT UNDER WHICH CLAIMS "DEALT WITH" BY GOE WILL BE "SETTLED AT THE COST" OF THE GOE, WHILE LEAVING REFERENCE TO "SETTLEMENT" OF CERTAIN CLAIMS BY USG. LACK OF PARALLELISM CREATES DOUBT AS TO WHO BEARS COST OF SETTLEMENT IN CASES "DEALT WITH" BY GOE. SECOND, EGYPTIAN LANGUAGE REFERS ONLY TO CLAIMS ARISING OUT OF "ACTS OR OMISSIONS OF MEMBERS OF THE FORCE," DELETING PHRASE "OR OUT OF ANY OTHER ACT, OMISSION OR OCCURRENCE FOR WHICH THE  
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FORCE IS LEGALLY RESPONSIBLE." IN ORDER TO COVER SOME OF

CLAIMS ABOUT WHICH WE ARE CONCERNED, WE WOULD HAVE TO AMEND EVEN BRITISH LANGUAGE TO REFER TO "THE FORCE OR THE USG".

2. IN LIGHT OF UNSATISFACTORY EXPERIENCE OF BRITISH IN TRYING TO NEGOTIATE AGREEMENT ON BASIS THIS FORMULATION, WE THINK IT UNLIKELY THAT ATTEMPT TO FIND SOLUTION ALONG THESE LINES WILL BE PRODUCTIVE. WE THEREFORE WOULD PREFER MORE GENERALIZED LANGUAGE. WE DO NOT UNDERSTAND HAMID'S OBJECTION TO FORMULATION SET FORTH PARA 2 REF B, WHICH

SIMPLY STATES THAT GOE REMAINS LIABLE FOR THOSE CLAIMS AS TO WHICH IT WOULD BE LIABLE IN ANY CASE. HOWEVER, WE ARE PREPARED TO ACCEPT SOLUTION ON BASIS OF SHORTENED VERSION OF THAT FORMULA, TO READ AS FOLLOWS: "IT IS UNDERSTOOD THAT THE GOVERNMENT OF THE UNITED STATES ASSUMES NO RESPONSIBILITY OR LIABILITY TOWARD THIRD PARTIES REGARDING CANAL CLEARANCE ACTIVITIES OR THE SAFETY OF CONDITIONS IN THE CANAL AND SURROUNDING AREAS." YOU SHOULD EXPLAIN TO HAMID THAT THIS IS A SIMPLE STATEMENT OF FACT; THE USG DOES NOT, AND WILL NOT, ASSUME LIABILITY TO THIRD PARTIES IN CONNECTION WITH ITS ASSISTANCE TO EGYPT IN CANAL CLEARANCE/SALVAGE. AT SAME TIME, RE PARA 2 REF C, YOU SHOULD EXPLAIN THAT US SERVICE AUTHORITIES DO HAVE DISCRETIONARY AUTHORITY TO SETTLE SOME THIRD-PARTY CLAIMS FOR DAMAGE CAUSED BY OR INCIDENT TO ACTIVITIES OF THE ARMED FORCES, AND OUR PROPOSED LANGUAGE NOT INCONSISTENT WITH EXERCISE OF THIS AUTHORITY IN APPROPRIATE CASES. FYI: THIS SOLUTION ACCEPTABLE ONLY IN LIGHT OF FACT, ADVERTED TO EARLIER BY HAMID (PARA 2 REF C), THAT OUR POSITION ON THIRD-PARTY LIABILITY AS SET FORTH IN OUR ORIGINAL NOTE IS NOT FORECLOSED BY PROPOSED LANGUAGE. END FYI

3. YOU ARE AUTHORIZED CONCLUDE BOTH EXCHANGES ON BASIS PROPOSED ABOVE.

4. IF EXCHANGES CONCLUDED ON THIS BASIS, TEXTS WOULD BE AS FOLLOWS:

A. FAHMY'S NOTE OF APRIL 25, 1974, (CAIRO 2649) WOULD BE WITHDRAWN AND REPLACED WITH VERSION MODIFIED AS FOLLOWS:  
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(I) NEW SECOND SENTENCE SET FORTH PARA 2 ABOVE WOULD BE ADDED TO PARA 2 OF FAHMY'S NOTE.

(II) PRESENT LANGUAGE OF PARA 3(A) WOULD BE REPLACED WITH THAT SET FORTH PARA 2 REF A.

(III) PHRASE "IN THE PRESENCE OF A REPRESENTATIVE OF THE

USG" WOULD BE ADDED AT END OF PARA 4(B).

(IV) NOTE SHOULD REQUEST YOUR CONCURRENCE IN ARRANGEMENT  
ESTABLISHED BY YOUR NOTE OF APRIL 13 AND REVISED GOE NOTE.  
YOUR NOTE IN RESPONSE SHOULD SIMPLY CONFIRM ACCEPTANCE.

B. TEXT OF EXCHANGE ON SALVAGE WOULD BE THAT SET FORTH  
PARA 4 STATE 96550 AS AMENDED PER CAIRO 3362 (AS WE UNDER-  
STAND PARA 4 OF LATTER, IT SHOULD REFER TO PARA 2 NOT 3).  
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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** SUEZ CANAL, STATUS OF FORCES AGREEMENTS, DREDGING, FOREIGN POLICY POSITION  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 06 JUN 1974  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** smithrj  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
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